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Serial No. 10/072,503
Response to Official Action

In the Drawings

There are no amendments to the drawings.

Remarks

Applicant presents the following Remarks. Favorable consideration thereof is earnestly requested.

The Examiner has stated that "Applicant argues that the Salvo teaches away from route optimization software, but as argued, it appears that Applicant is arguing that Salvo teaches away from long term scheduling software (scheduling delivery for one month as opposed to a different month) instead of optimizing the route taken once a purchasing decision has been made." (Official Action 4/7/06, p. 7.) Applicant respectfully disagrees.

It appears that the Examiner is suggesting that route optimization software (module) is limited to determining the optimal route a vehicle will take given a particular number of delivery locations. However, the application states that "[d]elivery analysis software module 70 may include one or a plurality of software modules, such as route optimization, geographical information and/or positioning systems." (p. 17, par. 63.) The application describes the functioning of the route optimization as follows, "software module 70 includes a route optimization software . . . that permit deliveries to be scheduled according to threshold storage levels of bulk product 16." (p. 17, par. 64) (emphasis added). Alternatively, the application teaches that "[t]he geographical information system would associate geographical positions of storage locations, geographical positions of deliverers to known geographical data." (p. 18, par. 65.) Therefore, "route optimization" as taught in the application has to do with analyzing the level of product at the

customer location and scheduling delivers based on the measured levels so as to reduce costs to the supplier by minimizing unnecessary delivers. Once the route optimization module determines that a delivery should be made to a customer, the “geographical information system” will determine the proper “transportation routes” to take. (See, p. 18, par. 65.) Therefore, “route optimization” is the analysis and scheduling of deliveries to minimize costs.

Accordingly, Applicant presented arguments as to why U.S. Patent No. 6,341,271 (Salvo et al.) does not teach or disclose “route optimization” as defined and used in the present application. Claim 1 recites “delivery analysis software module including a route optimization module by which the dealer optimizes its schedule of deliveries to customer storage locations based upon storage levels at the customer storage locations.” Claim 21 recites “a delivery analysis software module, including route optimization software, by which the dealer optimizes its schedule of deliveries to customer storage locations based upon storage levels at the customer storage locations.”

Salvo et al. is directed to an inventory management system which automatically monitors inventory amounts, provides information concerning inventory, and decides if an order for replacement inventory should be placed. However, all decisions concerning whether an order should be placed are based upon an analysis of what is best (i.e., least expensive) for the customer. There is absolutely no disclosure, teaching or suggestion in Salvo et al. of route optimization software (or module), by which the dealer

optimizes its schedule of deliveries to customer storage locations based upon storage levels at the customer storage locations.

In addition, U.S. Patent No. 5,983,198 (Mowery et al.) teaches that “[t]he processor projects future tank quantities based on the past usage pattern and determines possible routes for each of the vehicles to each of the tanks. The processor optimizes the routes, delivery amounts, and delivery schedule to minimize total delivered cost for the products based on the projected future tank levels and the possible routes to dispatch each of the vehicles.” (Abstract) Further, Mowery et al. teaches that the system “determines possible routes for each of the vehicles to each of the tanks” and “optimizes the routes.” (Col. 2, lines 45-46.) This feature referred to by the Examiner as “route optimization” is somewhat akin to the “geographical information system” of the present invention for determining a proper “transportation route” to take. (See, p. 18, par. 65.)

Applicant respectfully submits that Mowery et al. fails to teach or suggest “a route optimization module by which the dealer optimizes its schedule of deliveries to customer storage locations based upon storage levels at the customer storage locations” as required by Claim 1 or “a delivery analysis software module, including route optimization software, by which the dealer optimizes its schedule of deliveries to customer storage locations based upon storage levels at the customer storage locations” as required by Claim 21.

In addition, as previously submitted, it would not have been obvious to one skilled in the art to have modified the cited references to include the missing claim limi-

tations. It is well settled that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990). It is also well settled that if the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). In the present case, Applicant respectfully submits that, as mentioned above, Salvo et al. is solely concerned with optimizing deliveries received by a customer (i.e., with minimizing the cost to the customer of such deliveries). As such, there would be absolutely no motivation for one skilled in the art to modify the system disclosed therein with the system taught in Mowery et al. so as to include route optimization software, by which the dealer optimizes its schedule of deliveries. In fact, such a modification of Salvo et al. to arrive at the present invention would actually render the system disclosed therein unsuitable for its intended purpose as previously discussed.


Applicant further respectfully submit that the teachings of a reference must be viewed as a whole and that "[t]here must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself." *In re Oetiker*, 977 F.2d, 1443, 1447 (Fed. Cir. 1992). *See also In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (suggestion to combine must

be found in the prior art, not the applicant's disclosure). In the present case, Applicant respectfully submits that any modification of Salvo et al. alone or in view of Mowery et al. so as to include route optimization software, by which the dealer optimizes its sched-ule of deliveries works contrary to the objects of the invention of Salvo et al. and therefore cannot be obvious. Rather, the only motivation for making such a modification are the presently pending claims.

In view of the above, it is respectfully submitted that claims 1-10 and 21-28, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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